

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :842 of 2007

DATED:16-04-2007

S.Laxmi Subhashini.

**.....
PETITIONER**

AND

The District Collector,
Chittoor & 3 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner; learned Government Pleader for Revenue; and learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 4th respondent and its subordinates in trying to demolish the existing Samadhi (tomb) of the husband of the petitioner and also trying to destroy the existing fruit bearing trees in the land in Sy.No.1 total admeasuring Ac.4.95 cents situated at Mangalam village, Tirupathi Urban mandal, Chittoor District, as illegal and arbitrary.

3. It is the case of the petitioner that her husband was an ex-serviceman and was assigned an extent of Ac.4.95 cents of land in Sy.No.1 of Mangalam village, Tirupathi Urban mandal, Chittoor District. He died in 1979, and during his life time only he developed the land by investing huge amount and raised fruit bearing trees like Mango, Eucalyptus etc., It is stated that the petitioner is entitled to succeed the said land, and she has been requesting the authorities to grant patta on the basis of her continuous possession and eksal lease, but her request was rejected by the 2nd respondent-Joint Collector vide his order, dated 06-04-1999,

and she filed an appeal before the Commissioner of Appeals to remand the matter to the 2nd respondent and the same was remanded to the 2nd respondent for fresh disposal on merits and the 2nd respondent again passed orders, dated 09-02-2006, stating that no DKT patta was granted in the name of the husband of the petitioner, and therefore, petitioner filed another representation, dated 22-05-2006, to issue patta on the basis of eksal lease which was given in favour of her husband in 1973 and also on the basis of her continuous possession. It is stated that the 4th respondent is illegally making efforts to demolish the existing samadhi of her husband and also trying to make constructions closing the passage to reach the said samadhi. Hence, the present Writ Petition.

4. 4th respondent filed a counter stating that the 3rd respondent-Mandal Revenue Officer, Tirupathi Urban has allotted the said land in favour of the 4th respondent for construction of a complex for Government Observation Home for boys at Tirupathi vide his certificate, dated 11-10-2001, and since then the said land has been in continuous possession and enjoyment of the 4th respondent without any interruption. In fact, the complex was completed and is ready for occupation of the children for the purpose of counseling and reformation. It is further stated that the 4th respondent never threatened to demolish the samadhi and no steps have been taken to demolish the samadhi of the husband of the petitioner, and in fact building was also constructed as per the permission granted by the concerned authorities.

5. A perusal of the counter goes to show that the petitioner is not in possession of the said land in Sy.No.1 except the tomb which is existing. As the respondents have stated that no steps are being taken to demolish the said samadhi and as it is stated that building was already constructed in Sy.No.1 the disputed question of fact as to whether the petitioner is still in possession of any extent in Sy.No.1 cannot be decided in this Writ Petition.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

V.ESWARAIAH,J

16th February, 2007.

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